

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:09cv229

ENCOMPASS ADVISORS, LTD.,)
)
Plaintiff,)
)
vs.) ORDER
)
UNAPEN, INC., DAVID GEMMA, and)
JOAN WALKER,)
)
Defendants.)
)

THIS MATTER is before the Court on the Defendants' Motion to Dismiss or, in the Alternative, to Transfer Venue [Doc. 9].

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell was designated to consider this Motion and to submit recommendations for its disposition.

On November 2, 2009, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 32] in which he recommended that the alternative motion to transfer venue be granted and thus declined to

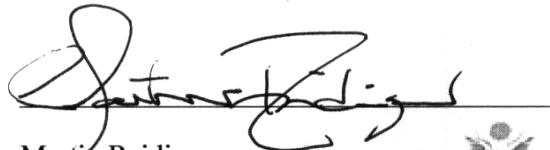
address the motion to dismiss. The parties were advised that any objections to the Magistrate Judge's conclusions and recommendations were to be filed in writing within ten days of service of the Recommendation and that failure to file objections to the Memorandum and Recommendation would preclude the parties from raising any objection on appeal. [Doc. 32, at 29]. The period within which to file objections has expired and no written objections to the Memorandum and Recommendation have been filed.

The Court concludes that the Magistrate Judge's recommendation is supported by the record and the law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation.

It is noted that even though the specific recommendation of the magistrate Judge does not address it, the text of the Magistrate Judge's Memorandum and Recommendation reflects that he recommends the denial of the Defendant's Motion to Dismiss for improper venue.

IT IS, THEREFORE, ORDERED that the Defendants' Motion to Dismiss is **DENIED** and that the Alternative Motion to Transfer Venue [Doc. 9] is **GRANTED** and this matter is hereby transferred to the United States District Court for the District of Connecticut, New Haven Division.

Signed: November 30, 2009



Martin Reidinger
United States District Judge

